IN THE HIGH COURT OF JUDICATURE AT PATNA
CWJC No.4994 of 2002
MEHADI HASAN
Versus
THE STATE OF BIHAR & ORS
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10 23.3.2009. Heard counsel for the petitioner, the State as well as the counsel appearing for the respondent nos.4 and 5.

This matter relates to issuance of Basgit Purcha in favour of Respondent no.3,4 and 5 under the provisions of Bihar Privileged Persons Homestead Tenancy Act by order dated 31.8.1992 in Case no.70 of 1992-93 relating to an area of 4 dhurs of C.S. Plot no.673 and Plot no.674 for 21 decimals in Mouza Khojpur Babubarhi in the district of Madhubani.

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Petitioner in this application is deity, through Sevait Bishwambhar Jha. Purcha was issued in favour of respondent no.4 and 5 under Memo no.725 dated 17.9.1992. Prayer of the petitioner is for quashing the order declaring the respondents privileged persons and directing to issue purcha in their favour. Further prayer is for quashing the aorder dated 2.2.2002 passed by the Collector in Case no.133 of 2000-01 confirming the order dated 31.8.1992, passed by Circle Officer, Babubarhi. The Collector has dismissed the appeal preferred by the petitioner under Section 21 of the Bihar Privileged Persons Home Tenancy Act on two grounds. Firstly that the enquiry report shows that respondent no.4 and 5 are in possession of the land for which purcha was issued in their favour and they have constructed their houses after receiving grant under Indira Awas Yojna being privileged persons. Secondly it is stated that the appeal preferred by

the petitioners after nine years of the order is time barred.

Mr.A.B.Ojha, counsel for the petitioner submits that the impugned order has been passed completely ignoring the report of Additional Collector Madhubani. The Additional Collector had conducted an enquiry on the spot and found that respondent no.4 and 5 had their ancestral houses on some other plots adjacent to C.S.Plot no.673 and 674 now R.S.Plot no.949. The Additional Collector found that though purcha has been issued in favour of respondents with respect of 1 Katha 3 dhurs , but in fact they are in possession of only 3 dhurs of land. It has been emphasized by the petitioner's counsel that if spot enquiry is conducted, the report will be similar to the report of Additional Collector.

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The Collector, Madhubani is directed to get a report from Circle Officer, Babubarhi relating to the possession of respondent nos.4 and 5 over R.S.Plot no.949 C.S.Plot no.673 (part) and 674 (part). The Circle Officer will submit report before the Collector, Madhubani. Collector Madhubani will send the report to the office of the Advocate General within three months from today.

Let this matter be listed on 23.6.2009 retaining its position.

(Mridula Mishra, J)

Sss/-